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# Real Estate Appraisal Guidelines

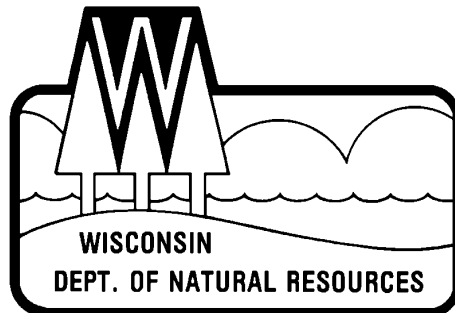
**State of Wisconsin**

**Department of Natural Resources**

**Bureau of Facilities and Lands**

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## **Appraisal Questions:**

Questions concerning these guidelines and any appraisal problems or questions should be directed to any of the following Department Review Appraisers.

### Appraisals for Department acquisition:

<u>Northern Region, Northeast Region, and Central Wisconsin Basin of the West Central Region:</u>			
Phil Lepinski	715-421-7820	473 Griffith Ave.	Wis. Rapids, 54494

<u>West Central Region except Central Wisconsin Basin, South Central Region, and Southeastern Region:</u>			
Ron Olson	608-785-9006	3550 Mormon Coulee Rd.	La Crosse, 54601

### Appraisals for Department grants to communities or non-profit conservation organizations:

<u>South Central Region:</u>			
Greg Delwiche	608-275-3314	3911 Fish Hatchery Rd	Fitchburg, 53711
<u>Northern Region:</u>			
John Wickland	715-822-3590	P.O. Box 397	Cumberland, 54829
Patricia Matula	715-358-9218	8770 Hwy J	Woodruff, 54568
<u>West Central Region:</u>			
Bill Krochmalski	715-839-3781	P.O. Box 4001	Eau Claire, 54704
<u>Southeast Region:</u>			
John Torke	414-263-8617	P.O. Box 12436	Milwaukee, 53212
<u>Northeast Region:</u>			
Mike Penning	414-492-5838	P.O. Box 10448	Green Bay, 54307

# **Real Estate Appraisal Guidelines**

## **Department of Natural Resources**

### **Bureau of Facilities and Lands**

#### **Appraisal Report General Guidelines**

These guidelines are for appraisals prepared for the Department of Natural Resources and for local communities and non-profit conservation organizations applying for grants administered by the Department of Natural Resources. All appraisals prepared under these guidelines shall adhere to the Uniform Standards of Professional Appraisal Practice (USPAP) and Uniform Appraisal Standards for Federal Land Acquisition. If the appraisal is prepared for property to be acquired by the Department of Natural Resources, the appraisal shall comply with the statutory rules governing the determination of just compensation (Chapter 32, Wis. Stats.).

Appraisals prepared under these guidelines shall be complete appraisals presented in a narrative report format, meeting USPAP standards for "complete, self-contained or summary appraisals." "Complete" reports are those which do not invoke USPAP's Departure provision. Limited appraisals invoking the USPAP Departure provision are not acceptable, except with the prior approval of the Real Estate Director or appropriate Review Appraiser. A "full narrative" report provides a full description of the subject, market information and appraisal methodology according to USPAP Standards 2-2(a) and 2-2(b). Restricted appraisal reports are not acceptable.

Appraisals based on hypothetical conditions will not be approved. A hypothetical condition as defined by USPAP is a condition that is contrary to what actually exists (known facts). Examples would include appraising property as free of contamination when it is known to be contaminated or appraising property as if zoning could be changed when the probability of rezoning is doubtful.

Appraisals based on extraordinary assumptions may be approved if that assumption can be supported with data or evidence from the marketplace. An extraordinary assumption is defined in USPAP as an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinion or conclusions. An example would be appraising property as if it were free of contamination when it is not known to be contaminated or appraising a site under an assumed zoning when the zoning is not known and there is no evidence that the assumed zoning is not possible.

#### **Full Narrative Appraisal Report (Complete, Self-Contained or Summary)**

Appraisals should be detailed and comprehensive, describing the property to be acquired. The report should provide the rationale used by the appraiser to reach an opinion of market value and must be documented by market data that supports the appraiser's conclusions. The form and content of the appraisal report, including the length and detail, will depend on the nature of the appraisal problem. Generally, a full narrative report should cover the items outlined below and comply with USPAP Standards for a "Complete, Self-Contained or Summary Appraisal Report."

- A. Title Page (Cover)
  - 1. Landowner name and geographical location of property.
  - 2. Name of appraiser
  - 3. Date of appraisal report
- B. Table of Contents
- C. Letter of Transmittal
  - 1. Name of Department property
  - 2. Ownership identification.

3. Name of appraiser and license or certification number.
  4. Effective date of appraisal -- estimated as of the most recent date of personal inspection by the appraiser unless instructed otherwise.
  5. Interest appraised -- fee, fee less minerals, fee less stumpage, fish management easement, etc., note appurtenant rights being acquired.
  6. Name of the client contracting for the appraisal.
- D. Certification by the appraiser. Include the normal USPAP signed certification and include statements in regards to the following information:
1. That the appraiser has personally inspected the property and has invited the landowner or agent to accompany the appraiser on the inspection. If the owner or agent does not accompany the appraiser, state why; (for example, "the owner did not feel it was necessary"). The Department encourages joint inspections.
  2. That in the opinion of the appraiser the estimated market value of the subject project, fee title and unencumbered (state specific rights if other than fee) as of (valuation date) is \$\_\_\_\_\_.
  3. That the appraiser has not discussed the property's price or value with the owner or owner's representative. The appraiser should discuss listings and sales of the subject and area sales but not opinions or estimates of the subject's value or value range.
- E. Purpose and Function. Value being sought and rights appraised. Typically this will be as a guide for establishing just compensation and in negotiations for the purchase, sale, or exchange of the property. Include a definition of market value. The USPAP definition or its equivalent is acceptable.
1. Intended user of the report. The intended user should be identified as the Wisconsin Department of Natural Resources and any other users as required by law or agency policy.
  2. Intended use of the report.
- F. Scope. Description of scope of investigation and analysis undertaken to complete the appraisal. Should include the geographical area and time span searched for market data, type of data researched, and extent of verification. (Required by USPAP Standards Rule 1-2 (a)(vi).)
- G. Summary of Appraisal Problem. Briefly describe the principal problems addressed in the appraisal. Discuss any special instructions provided by the client.
- H. Legal Description. The exact legal description of the property to be acquired. Partial acquisitions should include legal descriptions of the larger parcel and the part to be acquired. If the description will be subject to survey, make that a condition of the value. Include copies of any surveys, plats, deeds, and other legal descriptions referenced in the subject's legal description.
- I. Subject Location. Proximity to communities, services, major highways, and other pertinent features influencing the subject property if any.
- J. Area and Neighborhood Data. This should be a brief market analysis limited to social, environmental, economic, and physical data pertinent to the valuation of the subject property and its highest and best use. Include information on trends, land use patterns, and market conditions if pertinent. Identify elements or factors in the local market that are affecting similar properties.

#### Subject Property Information

- K. Subject Property Data. If the subject property is part of a larger ownership, the data shall be provided for the larger parcel, the acquisition, and the remainder.

1. Property size and shape. Include the dimensions of small parcels.
2. Site. Describe land cover types, use and acreage, soils (include class and limitations for septic systems and other uses), topography, mineral deposits and merchantable timber if any, road frontage and access, water frontage (include frontage distances), easements, accreted and relicited lands, and other pertinent physical characteristics. Include land improvements such as fencing, ponds, ditches, dikes, etc. Describe wells and private sewage disposal systems.
3. Improvements. Describe the type, size (dimensions), rooms, composition, age, condition and utility of buildings and other land improvements. Include a floor plan of residence. An interior inspection of the improvements is required unless the appropriate review appraiser waives the requirement.
4. Identify and discuss any observed environmental problems concerning wells, septic systems, underground storage tanks, hazardous waste spills, or other conditions existing on the property. If none are observed, state so.
5. Personal property, trade fixtures, and equipment. Describe the type, utility, and condition and whether they are included in the valuation of the property.
6. Availability of utilities including telephone, electric, gas, water, sanitary sewer, etc.
7. Special amenities or adverse conditions.
8. Present Use. A brief history of the subject and if it conforms to existing zoning ordinances.
9. Tax parcel numbers, assessed values, and annual taxes. Indicate the most recent real estate tax assessment, equalized estimate of full market value, and annual tax load. If tax exempt, the appraiser should estimate these amounts.
10. Zoning. Identify and describe the present zoning classification of the subject. Include significant permitted uses, prohibited uses, and minimum lot size requirements. If shoreland, floodplain, or wetland zoning affects the subject, this should be discussed. If there is a reasonable probability of a zoning change, this should be discussed and adequately supported (e.g. the number of similar zoning changes in the municipality in the recent past or sales of similar property which have been rezoned as a condition of sale). Verification of the likelihood of a zoning change from zoning officials is not adequate to serve as sole support.
11. History of Ownership. Provide a history of all sales and transfers of the subject in the last five years. If none, provide the tenure of the current owner. If listed with a broker, provide listing information. In the valuation section, analyze any sale of the subject within the last 5 years or explain why it is not appropriate. If the subject property is listed for sale, discuss listing price and analyze this market information.
12. Discuss easements, encumbrances, existing land use regulations, and other restrictions impacting property. If property is under lease or contract, discuss terms and conditions of lease or contract. Include governmental contracts such Conservation Reserve Program, Wetland Reserve Program, conservation easements, Managed Forest Law, etc.

#### Evaluation Analysis and Conclusions

- L. Highest and Best Use. Analysis and conclusion of highest and best use should be discussed. A public use conclusion of Highest and Best Use is not considered to be a most profitable use. Therefore, public use is not an acceptable Highest and Best Use. If there is a reasonable probability of a zoning change, this should be discussed and adequately supported (e.g. the number of similar zoning

changes in the municipality in the recent past or sales of similar property which have been rezoned as a condition of sale). Verification of the likelihood of a zoning change from zoning officials is not adequate to serve as sole support. If the subject property is part of a larger ownership, the Highest and Best Use of the whole property, acquisition and remainder should be discussed. Four criteria should be addressed.

1. The use must be physically possible.
2. The use must be legally permissible.
3. The use must be economically feasible, appropriate, and supported by demand. It should maximize productivity.
4. The use must be profitable.

- M. Severance Damages. Applies only to appraisals prepared for property to be acquired by a governmental agency with eminent domain powers. Severance damages and offsetting special benefits should be explained and supported in every appraisal, even if no damages occur. Consideration must be given to unity of ownership, unity of use, and physical contiguity. A "before and after" valuation technique should be used if necessitated by the appraisal problem. If the "before and after" valuation technique is used, the appraiser must also appraise the market value of the taking as an independent parcel.

Department lands appraised for sale or exchange are not subject to eminent domain. The rules governing just compensation do not apply. Appraisals of Department-owned lands should state that the consideration of severance is not applicable.

- N. Appraisal Approaches to Value. Each of the three approaches to value must be considered. The appraisal problem at hand will dictate those approaches best suited to logically support a market value estimate. The appraiser should discuss the reason for selecting the approach(es) used in the valuation process and the reason for rejecting any of the approaches. Both cost and market approaches are expected for improved property, unless the age and/or condition of the improvements render the Cost Approach unreliable.

1. The Sales Comparison Approach is based on an analysis of recent sales of comparable properties and other market data. The sales comparison approach is considered the most desirable method of valuation. Market sales nearby and comparable to the subject and recent to the date of appraisal are the best evidence of market value. All comparable sales must have the same economic highest and best use as the property under appraisal. However, the other approaches may be useful in supporting the value conclusion and for allocation purposes. Sale to the Department or other units of government are not considered acceptable sales. Sales to non-profit organizations are generally considered to be unacceptable, except as supporting evidence.

The market approach should include:

- a) A complete description of comparable sales cited in the analysis. Generally include a description of each sale similar to the subject property description factors outlined previously. This data can be presented on a Sale Data Information Form (2200-63) or similar form and inserted as an addendum. Discuss extent of market search including areas searched and data sources. If sales are not current, discuss lack of sales and use of older sales data. Include the following:
  - 1) Grantor and Grantee names.
  - 2) Full legal description from deed or transfer return. Copies of any plats, surveys, or deeds referred to in the sales' legal descriptions should be included.
  - 3) Date of sale, recording data (volume and page), and type of instrument. Provide

and analyze the terms of any other-than-cash-at-closing financing arrangements, and make appropriate adjustments to the sale price.

- 4) Sale price, financing terms and/or conditions including personal property, if any, and buyer motivation. All sales must be "arms-length transactions."
- 5) Verification by grantor, grantee, or other party with direct knowledge of the transaction (e.g. broker or attorney). Should include information on marketing of the property including broker involvement, listing price, circumstances of sale, and how price was established.
- 6) A brief description of the sale property including location, size, soil types, topography, road frontage, access, water frontage, mineral deposits, merchantable timber, improvements, utilities, and zoning. Indicate intended use by grantee.
- 7) Date of sale inspection by appraiser.
- 8) Highest and Best Use (must be similar to subject).
- 9) Captioned photographs of each sale. ASCS aerial photographs with property boundaries outlined can be utilized for vacant land sales.

Note: The Department has sale data forms available for describing the sales.

- b) A minimum of three verified sales that have occurred within the past three years shall be cited. If older than three years, the appraiser should explain the reason for using the sales as a basis for comparison. These should be the most recent, similar, and proximate arms length sales available. Competitive listings may be cited as additional support. The appraiser must discuss the extent of his/her market analysis including a definition of the market area, quantity of sales examined, and market data source.
- c) An identification of the significant elements of value for the subject and sale properties. A pairing of sales may provide a quantification of the value differences attributed to specific elements of value.
- d) A direct comparison of the sales with the subject. Discussion should focus on the principal elements of value. A clear, concise market comparison should lend itself to concluding a value through the market approach. The use of a grid (and tables, charts or graphs) to augment the narrative can be very effective and is strongly recommended.
- e) Explain any adjustments made to the sales. Each adjustment should be discussed and supported. The larger the adjustment, the greater the explanation and support.
- f) An analysis of the last sale of the subject if it occurred within the past 5 years. If the last sale of the subject occurred within five years and is not analyzed, explain why not. If the subject is presently listed for sale, provide the listing price and analyze this information.
- g) The sales selected should bracket the value of the property both before and after adjustments.
- h) A conclusion of value from the market approach. The discussion should present the reasoning behind the final value.

Please note: Provide adequate explanation if the sales do not bracket the estimated value for the subject, any sale is older than 3 years, there are no current year sales, sales are over 10 miles

from the subject, or any single adjustment exceeds 25%.

2. The Cost Approach estimate of value, if relevant and reliable. The cost approach is most applicable to improved properties with minimal depreciation or special purpose properties. The cost approach should not be used alone unless special justification is provided in the appraisal. Provide the following:
  - a) Complete market approach to support the land value. Include at least three vacant land comparable sales. Provide sales data information as required for sales cited in the market approach.
  - b) Estimate the replacement or reproduction cost new of each improvement. Cite the source of the cost data used in this analysis. The calculations should be included as part of the report.
  - c) Explain and estimate all forms of depreciation including physical deterioration and functional and economic (locational or environmental) obsolescence. Estimates of depreciation should be supported by market data when available.
  - d) The depreciated replacement cost analysis may be omitted on improvements, both real and personal, for which a salvage, scrap, or nominal value contribution is estimated.
3. The Income Approach estimate of value, if relevant and reliable. A value estimate by the income approach shall include adequate factual market data to support each figure and factor used and shall be arranged in detail form. It should at least include these steps:
  - a) Estimate net operating income. Explain and support with actual or estimated income/rental and expense data, economic rents, and vacancy factors.
  - b) Estimate and support the capitalization rate and technique.
  - c) If a subdivision analysis is used, provide a sketch of the proposed plat and sales data to support retail lot prices. The appraiser should also include the sales comparison approach using bulk land sales.

Capitalization of net income shall be at the rate prevailing for this type of property and location. The capitalization technique, method, and rate used shall be explained in narrative form supported by a statement of sources of rates and factors.

- O. Reconciliation of Approaches and Final Estimate of Value. One of the final steps in the analyses and conclusions portion of the report will be a narrative correlation of the indications of value into a final estimate of value. When only one approach is used, the correlation will serve as:

1. A summary of the most pertinent data from that particular approach.
2. The appraiser's final conclusions of market value.

When correlating two or three approaches, take into account the type of property in relation to the adequacy of the data processed in each approach. This summary should explain the strengths and weaknesses of each approach and influence the weight to be given each one. USPAP 1-4(e) states "*refrain from estimating the value of the whole solely by adding together the individual values of the various estate or component parts.*"

Do not obtain a final estimate of value by averaging the individual indications. Instead, examine the quantity and quality of data available. Place the greatest emphasis on the approach that most reliably reflects local thinking and marketability. Then consider tempering this estimate with any reliance placed on the other approaches.



Make a final estimate of market value. Final values should be rounded. Provide an allocation of the final estimate of market value among the following:

1. Land.
  2. Improvements (allocate a dollar amount to each improvement).
  3. Personal Property (equipment, trade fixtures, etc.).
  4. Severance Damages.
- P. An estimate of the marketing time for the subject at the appraised value is not required.
- Q. Statement of Limiting Conditions and Critical Assumptions. If there are no limiting conditions or critical assumptions, state so.

Exhibits and/or Addenda.

- R. Include maps, plats, photographs, sale data forms, and other supportive information as needed. A subject aerial photo, subject location map, and sale data sheets are often placed in the body of the report. Other items typically appear as addenda. At a minimum, include the following:
1. Maps of the subject property, plat book map, section map or tax parcel map, or similar. Identify the location of any improvements. Other maps to consider for inclusion if pertinent to the valuation problem include soils maps, zoning maps, floodplain maps, wetland zoning maps, and topographic maps.
  2. Location map(s) of subject and sales such as county, township, city, or village.
  3. Photographs of the Subject. Include both aerial and ground level photographs. Ground level photographs should include exterior and interior (major improvements) photos of each improvement of value and the property's important physical features (water frontage, covertypes, road frontage, etc).
  4. Documents and survey maps referenced in the subject's legal description.
  5. A sketch showing the layout of the buildings and improvements on the site.
  6. Floor plans of the primary buildings.
  7. Comparable sale information (Form 2200-63 or equal). Includes captioned photographs of each sale. Photographs shall include the improvements and important physical features. A township map (platbook) identifying the sale boundaries.
  8. Timber cruise data if available.
  9. Survey maps of subject and sales when required to ascertain property location.
  10. Qualifications of the appraiser.

## **Abbreviated Narrative Appraisal Reports For Uncomplicated Appraisals** **(Complete - Summary Appraisal Report)**

Abbreviated Narrative Appraisal Reports or form appraisal reports may be used for uncomplicated appraisals up to \$50,000\*. Uncomplicated appraisals are considered to include appraisals of unimproved property where good market data is available. Good market data exists when the 3 sales generally comparable to the subject can be located within same market place, have the same highest and best use as the subject, are less than 3 years old, and the final estimate of value is bracketed by sale prices.

\* Abbreviated narrative appraisals for properties over \$50,000 may be prepared for uncomplicated appraisal assignments with the approval of the appropriate review appraiser. **Please contact the appropriate review appraiser if you have questions about which assignments qualify for abbreviated narrative appraisals.**

Appraisals prepared with this format should cover all the essential requirements of the full narrative appraisal report as described in these guidelines. The abbreviated narrative report is a USPAP Standard 2-2(b) Summary report. The descriptions, discussions, and analyses are more summary in nature than the full descriptions provided in a full narrative report. Sale data information sheets are not required. Provide the sale date, sale price, property size, recording data (volume and page), and highest and best use for a minimum of 3 comparable sales. Provide a brief narrative comparing the sales with the subject. The comparison should highlight the principal elements considered by the appraiser in comparing the subject to the comparable sales in order to arrive at a value indication by the Market Data Approach. If the comparable sales are over one year old, show the appropriate time adjustments.

### **Form Appraisal Reports**

Uniform Residential Appraisal Report (URAR) Form: The URAR report form with requested attachments can be used to appraise any improved, 1 to 4 family, seasonal or year-round residential structure on a single site. The land value of the property should be less than 50% of total value, and the primary valuation emphasis is placed on the market approach. The information identified in the "*Form Appraisal Information Requirements*" section must be incorporated into the report or included in an addendum to the report.

The URAR report form should not be used:

- Where land value is more than 50% of total value or land valuation is complex.
- For easement valuations and other partial acquisitions
- Where highest and best use is not residential.
- When severance damages apply.

Vacant Land Form Appraisal Reports: Vacant land appraisal forms with requested attachments can be used where a Short Form Narrative Appraisal report is allowed as specified in these guidelines. The information identified in the "*Form Appraisal Information Requirements*" section must be incorporated into the report or included as an addendum to the report. If you have any questions as to when the use of these forms is applicable, please contact the appropriate Review Appraiser.

Form Appraisal Information Requirements: The information provided in or with the URAR and Vacant Land Forms must meet the information needs for either the Narrative or Short Form appraisal report as outlined in these guidelines based on the value of the property being appraised.

All applicable portions of the forms must be completed. The following additional information must be incorporated into the URAR or Vacant Land Form (by addendum if necessary) to comply with these guidelines.

- A. Allocation of value to land, improvements and personal property.
- B. Full legal description.
- C. Five year history of ownership (Expand form FW-70M).

- D. Comment Section: Discuss soils, topography, covertypes and acreages, mineral deposits and timber value, road frontage, water resources, and other amenities that contribute to value.
- E. A brief discussion of the entire ownership if the subject is part of a larger parcel and a statement regarding severance damages.
- F. Identify the source of Reproduction Cost New (e.g.: Boeckh Valuation Manual). Discuss and identify all types of depreciation.
- G. Sales data sheets are required for appraisals over \$50,000.
- H. Explain rationale for adjustments made to the sales.
- I. Certification by Appraiser as specified elsewhere in these guidelines.
- J. The following information must be provided in an attached addendum:
  - Photographs of Subject and Sales. Ground photographs of subject and aerial photo with subject delineated if subject is more than 5 acres.
  - Building floor plan sketch.
  - Map of subject and sales such as survey maps, plat map, etc. showing dimensions, road frontage, etc. (Plat book map is appropriate if property can be accurately depicted.)
  - Location map of subject and sales.
  - Multi-Purpose Supplemental Addendum(FW-70M) amended to eliminate the reference as to the purpose and function of appraisal as being for lending purposes. Sales History should be amended to cover the past 5 years of ownership.
  - Statement of Limiting Conditions FM 439/FM 1004B or similar document.
  - Qualifications of Appraiser.
- K. The forms should be filled out to include the following:
  - Owner's name in place of borrower.
  - Names of grantor and grantee in the sale address area.
  - Name of person verifying sale under data source.
  - Size of sale parcels.
  - Highest and Best Use of sales.

### **Appraisal Report Update Guidelines**

An Update of an Appraisal is defined as an extension of the original appraisal. Updating an appraisal may be performed without rewriting the entire report. The update becomes an attachment to the original appraisal. The form and content of the appraisal update, including the length and detail, will depend upon the changes in the property and the real estate market that have occurred since the previous date of valuation. Properties where significant changes have occurred or with appraisals more than three years old should be reappraised.

The update shall include, at a minimum, the following items:

Title page.

Expanded Letter of Transmittal (Summary of Appraisal with reference to excerpts from the original appraisal, definition of value, date of value estimate, property rights appraised, approaches used, reconciliation and value conclusions, etc.)

A statement by the appraiser that the update becomes an attachment to the original report.

Certification.

Qualifying and limiting conditions/general underlying assumptions.

Identification of real estate with photographs if changed.

Changes in market conditions since original appraisal

(include current assessment/taxes, etc.)  
Changes in subject real estate since original appraisal.  
Highest and best use update.  
Cost approach update.  
Sales comparison approach update.  
Income capitalization approach update.  
Detailed legal description if changed.  
Other relevant information pertinent to the update.  
Qualifications of the appraiser if changed.

## **Wisconsin Statutes, Chapter 32.08, Eminent Domain**

32.09 Rules governing determination of just compensation. In all matters involving the determination of just compensation in eminent domain proceedings, the following rules shall be followed:

(1) The compensation so determined and the status of the property under condemnation for the purpose of determining whether severance damages exist shall be as of the date of evaluation as fixed by s. 32.05 (7)(c) or 32.06 (7).

(1m) As a basis for determining value, a commission in condemnation or a court may consider the price and other terms and circumstances of any good faith sale or contract to sell and purchase comparable property. A sale or contract is comparable within the meaning of this subsection if it was made within a reasonable time before or after the date of evaluation and the property is sufficiently similar in the relevant market, with respect to situation, usability, improvements and other characteristics, to warrant a reasonable belief that it is comparable to the property being valued.

(2m) In determining just compensation for property sought to be condemned in connection with the construction of facilities, as defined under s. 196.491(1), any increase in the market value of such property occurring after the date of evaluation but before the date upon which the lis pendens is filed under s. 32.06(7) shall be considered and allowed to the extent it is caused by factors other than the planned facility.

(3) Special benefits accruing to the property and affecting its market value because of the planned public improvement shall be considered and used to offset the value of property taken or damages under sub. (6), but in no event shall such benefits be allowed in excess of damages described under sub. (6).

(4) If a depreciation in value of property results from an exercise of the police power, even though in conjunction with the taking by eminent domain, no compensation may be paid for such depreciation except as expressly allowed in subs. (5)(b) and (6) and s. 32.19.

(5)(a) In the case of a total taking the condemnor shall pay the fair market value of the property taken and shall be liable for the items in s. 31.19 if shown to exist.

(b) Any increase or decrease in the fair market value of real property prior to the date of evaluation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, may not be taken into account in determining the just compensation for the property.

(6) In the case of a partial taking of property other than an easement, the compensation to be paid by the condemnor shall be the greater of either the fair market value of the property taken as of the date of evaluation or the sum determined by deducting from the fair market value of the whole property immediately before the date of evaluation, the fair market value of the remainder immediately after the date of evaluation, assuming the completion of the public improvement and giving effect, without allowance of offset for general benefits, and without restriction because of enumeration but without duplication, to the following items of loss or damage to the property where shown to exist:

(a) Loss of land including improvements and fixtures actually taken.

(b) Deprivation or restriction of existing right of access to highway from abutting land, provided that nothing herein shall operate to restrict the power of the state or any of its subdivisions or any municipality to deprive or restrict such access without compensation under any duly authorized exercise of the police power.

(c) Loss of air rights.

(d) Loss of a legal nonconforming use.

(e) Damages resulting from actual severance of land including damages resulting from severance of improvements or fixtures and proximity damage to improvements remaining on condemnee's land. In determining severance damages under this paragraph, the condemnor may consider damages which may arise during construction of the public improvement, including damages from noise, dirt, temporary interference with vehicular or pedestrian access to the property and limitations on use of the property. The condemnor may also consider costs of extra travel made necessary by the public improvement based on the increased distance after construction of the public improvement necessary to reach any point on the property from any other point on the property.

(f) Damages to property abutting on a highway right of way due to change of grade where accompanied by a taking of land.

(g) Cost of fencing reasonably necessary to separate land taken from remainder of condemnee's land, less the amount allowed for fencing taken under par. (a), but no such damage shall be allowed where the public improvement includes fencing of right of way without cost to abutting lands.

(6g) In the case of the taking of an easement, the compensation to be paid by the condemnor shall be

determined by deducting from the fair market value of the whole property immediately before the date of evaluation, the fair market value of the remainder immediately after the date of evaluation, assuming the completion of the public improvement and giving effect, without allowance of offset for general benefits, and without restriction because of enumeration but without duplication, to the items of loss or damage to the property enumerated in sub. (6) (a) to (g) where shown to exist.

(6r) (a) In the case of a taking of an easement in lands zoned or used for agricultural purposes, for the purpose of constructing or operating a high-voltage transmission line, as defined in s. 196.491(1)(f), or any petroleum or fuel pipeline, the offer under s. 32.05(2a) or 32.06(2a), the jurisdictional offer under s. 32.05(3) or 32.06(3), the award of damages under s. 32.05(7), the award of the condemnation commissioners under s. 32.05 (9) or 32.06(8) or the assessment under s. 32.57(5), and the jury verdict as approved by the court under s. 32.05(10) or (11) or 32.06 (10) or the judgement under s. 32.61(3) shall specify, in addition to a lump sum representing just compensation under sub. (6) for outright acquisition of the easement, an amount payable annually on the date therein set forth to the condemnee, which amount represents just compensation under sub. (6) for the taking of the easement for one year.

(b) The condemnee shall choose between the lump sum and the annual payment method of compensation at such time as the condemnee accepts the offer, award or verdict, or the proceedings relative to the issue of compensation are otherwise terminated. Selection of the lump sum method of payment shall irrevocably bind the condemnee and successors in interest.

(c) 1. Except as provided under subd. 2, if the condemnee selects the annual payment method of compensation, the fact of such selection and the amount of the annual payment shall be stated in the conveyance or an appendix thereto which shall be recorded with the register of deeds. The first annual payment shall be in addition to payment of any items payable under s. 32.19. Succeeding annual payments shall be determined by multiplying the amount of the first annual payment by the quotient of the state assessment under s. 70.575 for the year in question divided by the state assessment for the year in which the first annual payment for that easement was made, if the quotient exceeds one. A condemnee who selects the annual payment method of compensation, or any successor in interest, may at any time, by agreement with the condemnor or otherwise, waive in writing his or her right, or the right of his or her successors in interest, to receive such payments. Any successor in interest shall be deemed to have waived such right until the date on which written notice of his or her right to receive annual payments is received by the condemnor or its successor in interest.

2. If lands which are zoned or used for agricultural purposes and which are condemned and compensated by the annual payment method of compensation under this paragraph are no longer zoned or used for agricultural purposes, the right to receive the annual payment method of compensation for a high-voltage transmission line easement shall cease and the condemnor or its successor in interest shall pay to the condemnee or any successor in interest who has given notice as required under subd. 1 a single payment equal to the difference between the lump sum representing just compensation under sub. (6) and the total of annual payment previously received by the condemnee and any successor in interest.

(7) In addition to the amount of compensation paid pursuant to sub. 6, the owner shall be paid for the items provided for in s. 32.19, if shown to exist, and in the manner described in s. 32.20.

(8) A commission in condemnation or a court may in their respective discretion require that both condemnor and owner submit to the commission or court at a specified time in advance of the commission hearing or court trial, a statement covering the respective contentions of the parties on the following points:

- (a) Highest and best use of the property.
- (b) Applicable zoning.
- (c) Designation of claimed comparable lands, sale of which will be used in appraisal opinion evidence.
- (d) Severance damage, if any.
- (e) Maps and pictures to be used.
- (f) Costs of reproduction less depreciation and rate of depreciation used.
- (g) Statements of capitalization of income where used as a factor in valuation, with supporting data.
- (h) Separate opinion as to fair market value, including before and after value where applicable by not to exceed 3 appraisers.
- (i) A recitation of all damages claimed by owner.
- (j) Qualifications and experience of witnesses offered as experts.

(9) A condemnation commission or a court may make regulations for the exchange of the statements referred to in sub. (8) by the parties, but only where both owner and condemnor furnish same, and for the holding of prehearing or pretrial conference between parties for the purpose of simplifying the issues at the commission hearing or court trial.

History: 1975 c. 68, 191, 410, 425; 1977 c. 438, 440; 1983 a. 236.

In proceedings under 84.09 (3m), Stats 1961, where a strip of land was taken and access to a loading dock restricted because the highway was depressed, plaintiff could recover damages for loss of access because the police power was not involved under 32.09(4). *Crown Zellerbach Corp. v. Milw. City Dev. Dept.* 47 W(2d) 142, 177 NW(2d) 94.

While the general rule is that evidence of net income is inadmissible to establish fair market value, that rule does not preclude admission of net income under certain circumstances for certain purposes, including impeachment, refreshing the recollection of a witness, or where proper objection is not timely made. *Mancheski v. State*, 49 W(2d) 46, 181 NW(2d) 420.

The closing of an intersection under the police power does not require compensation so long as access to property is preserved, because there is no property right to the flow of traffic. *Schneider v. State*, 51 W(2d) 458, 187 NW(2d) 172.

It is error to receive testimony of an appraiser who made his appraisal 10 months before the date of taking and acknowledged that the value had changed in the 10 months but could not update his appraisal. *Schey Enterprises, Inc. v. State*, 52 W(2d) 361, 190 NW(2d) 149.

Where a partial taking eliminates a sewer connection, the condemnor must pay the owner's expense of connecting to another sewer, even though the taking was an exercise of the police power. *Hanser v. Metropolitan Sewerage Dist.* 52 W(2d) 429, 190 NW(2d) 161.

Admissibility of opinion evidence as to probability of laying out a road, zoning changes and sanitary facilities discussed. *Bembinster v. State*, 57 W(2d) 277, 203 NW(2d) 897.

Damages caused by change of the grade of a street or highway where no land is taken constitutes an exercise of police power which is separate and distinct from the exercise of power of eminent domain under (6)(f) and is only compensable under 32.18. *Jantz v. State*, 63 W(2d) 404, 217 NWQ(2d) 266.

Inconvenience is a factor only when the landowner's property rights in the remaining portion are so impaired that the owner has, in effect, had that portion taken also. *DeBruin v. Green County*, 72 W(2d) 464, 241 NW(2d) 167.

An owner's opinion as to the value of real estate can be accepted but in order to support a verdict some basis for the opinion must be shown. *Genge v. Baraboo*, 72 W(2d) 531, 241 NW(2d) 183.

Requirement that property be valued as an integrated and comprehensive entity does not mean that the individual components of value may not be examined or considered in arriving at an overall fair market value. *Milw. & Sub. Trans. v. Milw. County*, 82 W(2d) 420, 263 NW(2d) 503.

Existing right of access in 32.09(6)(b) includes right of abutting property owner to ingress and egress, and right to be judged on criteria for granting permits for access points under 86.07(2). Restriction of access was compensable taking. *Narloch v. Department of Transportation*, 115 W(2d) 419, 340 NW(2d) 542 (1983).

Guidelines adopted for considering "assemblage" in valuing condemned property. *Clarmar v. Milwaukee Redevelopment*, 129 W(2d) 81, 383 NW(2d) 890 (1986).

Owner of condemned property is not entitled to cost of developing functionally equivalent substitute facilities. *United States v. 564.54 Acres of Land*, 441 US 506 (1979).

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